

TEGE EO Examinations Mail Stop 4920 DAL  
1100 Commerce St.  
Dallas, TX 75242

Number: **201044020**  
Release Date: 11/5/2010

July 13, 2010

ORG = Organization name      XX = Date      Address = address

Person to Contact:  
Identification Number:  
Contact Telephone Number:  
In Reply Refer to: TE/GE Review Staff  
EIN:

Dear :

Our adverse determination was made for the following reasons:

The ORG has not been operating exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). You are also not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You are not an organization which operates exclusively for one or more of the exempt purposes which would qualify it as an exempt organization. You operate substantially for a non-exempt purpose, for private benefit, and your earnings inure to the benefit of the officers of the organization.

Based upon these reasons, your IRC section 501(c)(3) tax exempt status is revoked effective January 1, 20XX.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers.

You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling (212) 436-1011, or writing to: Internal Revenue Service, Taxpayer Advocates Office, 290 Broadway, 5<sup>th</sup> Fl., New York, NY 10007. Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Nanette M. Downing  
Director, EO Examinations

**Internal Revenue Service**

**Department of the Treasury**  
Internal Revenue Service  
TE/GE: EO Examinations  
1100 Commerce Street MC: 4900 DAL  
Dallas, TX 75242

Date: November 3, 2009

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

**Certified Mail - Return Receipt Requested**

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG		<b>Year/Period Ended</b>  20XX12

**LEGEND**

ORG = Organization name      XX = Date

**Issue:**

Whether the ORG (the Organization) qualified for exemption under Section 501(c)(3) before the cessation of its activities in 20XX?

**Facts:**

ORG is recognized as a section IRC 501(c)(3) tax exempt organization. According to its certificate of incorporation and Form 1023 (Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Service), the primary purposes of the organization are as follows: Providing food and shelter, as well as legal, medical, financial and moral support to the victims of crimes and terrorist activity around the world. Medical support will be in the form of charitable donations of medical equipment and supplies to the medical facilities and hospitals treating the victims. Exemption under IRC § 501(c)(3) was granted based on these activities.

The Organization is no longer operating. It filed a final return for its fiscal year ending December 31, 20XX. The Organization's primary activity was organizing and staging protests against terrorism according to written materials supplied during the examination. Those who participated in the protests were compensated in cash with no formal documentation other than checks written to cash. Further, there were numerous electronic transfers of money into the Organization's accounts from various parts of the world. There was no documentation as to why these funds were wired or from whom these funds were wired. The bank records for the wired transactions simply indicated the country from which the money was sent.

During the year under examination, it was also noted the organization issued several checks in the name of its Vice President totaling \$ as compensation. The Form 1099 completed ostensibly to report this compensation was never filed with the Service (notwithstanding the fact that officers such as Vice Presidents are statutory employees and should have been issued a Form W-2 and had employment tax withheld). Further, several Currency Transaction Reports completed in 20XX indicate withdrawals were made from the organization's bank account totaling \$ by the Vice President. There was no documented business purpose for these cash withdrawals totaling \$.

**Law:**

IRC § 501(c)(3) exempts from Federal income tax: corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda,

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or otherwise attempting to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Treas. Reg. § 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. The words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization.

Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) provides an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) assigns the burden of proof to an organization to show that it serves a public rather than a private interest and specifically that it is not organized or operated for the benefit of private interests, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In Revenue Ruling 67-5, 1967-1 C.B. 123, it was held that a foundation controlled by the creator's family was operated to enable the creator and his family to engage in financial activities which were beneficial to them, but detrimental to the foundation. It was further held that the foundation was operated for a substantial non-exempt purpose and served the private interests of the creator and his family. Therefore, the foundation was not entitled to exemption from Federal income tax under section 501(c)(3).

In *Better Business Bureau v. United States*, 326 U.S. 279 (1945), the United States Supreme Court held that regardless of the number of truly exempt purposes, the presence of a single substantial non-exempt purpose will preclude exemption under section 501(c)(3).

IRC § 6001 requires every person liable for any tax imposed by this title, or for the collection thereof to keep such records and comply with the rules and regulations prescribed by the Secretary.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such

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records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Government's Position:

The Organization did not meet the burden of proof required by Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) to show that the Organization served a public rather than a private interest. No documentation was provided to explain who and for what purpose funds were transferred into the Organization's bank accounts. A substantial part of the organization's expenses were paid to cash. Again, there was no documentation as to whom the money was paid or for what specific purpose it was paid.

The Organization, which is controlled by the Board of Directors, enabled the Vice President to engage in financial activities which were beneficial to him, but detrimental to the Organization. Accordingly, the Organization was operated for a substantial non-exempt purpose. See Revenue Ruling 67-5.

The organization failed to meet the reporting requirements under IRC § 6001 and 6033 as noted in the following instances:

The organization was unable to show a business purpose for withdrawals from the Organization's bank accounts that were transacted by the Vice President. This is also a violation of the prohibition of inurement provision of IRC § 501(c)(3).

The Organization was unable to substantiate conducting any of its organizational purposes as restated in the first paragraph of this document under the caption "Facts". Therefore, exemption was granted based on activities other than those which were actually carried on.

The Organization was unable to adequately document its stated purposes "organizing and staging protest against terrorism" as stated on its Form 990 for the year ending December 31, 20XX.

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Conclusion:

The organizations failed to meet the operational test of Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii). The organization failed to meet the reporting requirements under IRC § 6001 and 6033. The organization failed to show its financial transactions served a public rather than private interests as required by Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii). Accordingly, the organization's exempt status is revoked effective January 1, 20XX.